Missouri Department of Revenue

Tax Bulletin

Volume 8, No. 2 Summer 1999

'Directly' Speaking . . .

This edition of the *Tax Bulletin* coincides with the completion of a tax season representing more than a year of efforts to improve the performance of the Missouri Department of Revenue. While this improvement effort will be a never-ending effort, I'm pleased with the progress the department has made. For the next year, however, we want to do more. And that will require, more than ever, your guidance and support. I know that obtaining, and deserving, this level of involvement will require ever-better communication with taxpayers and their attorneys, accountants and practitioners.

The *Tax Bulletin* can play a vital role in building a partnership between you and the department. I hope you find this edition of the *Tax Bulletin* useful in your efforts to both understand and communicate to others about the policies, practices and procedures of the Missouri Department of Revenue. If we've been effective in understanding your needs, these publications help you, your firm and your customers more fully comply with state tax requirements, while experiencing a lower cost of compliance. Let me know if the *Tax Bulletin* helps you, and how it can be improved.

Over the past year, much of the attention paid by the media to tax issues has focused on the rates and tax policies that affect the amount of taxes owed by taxpayers. This is obviously important. By any measure, Missouri has one of the lowest burdens of taxation, especially as a percentage of the personal income of our residents, of any state in the country. However, I believe taxpayers are also concerned about the effort and cost they must put into determining how much tax is owed. For that reason, the Department of Revenue wants to play its part in making Missouri not just one of the lowest tax states, but also the state with the least hassle when it comes to paying these taxes.

The legislative session just concluded was a major success in terms of helping to make Missouri a low-hassle state while continuing as a low-tax state. As you will read in the report on 1999 tax legislation, many of the provisions included in the major tax-cutting legislation signed by Governor Carnahan, House Bill 516, reduced both the level of taxes and the cost of compliance.

In tax operations, we at the department define our success in both areas in terms of obtaining full and voluntary compliance at a low cost. We are accomplishing this through administrative action where possible, and seeking legislative authorization where necessary, to improve the products we produce to better meet the demands placed on them. Over the past year, we've informed you about, and involved many readers in, our efforts to make these products more useful and satisfying to you.

This edition of the *Tax Bulletin* contains updates on several of the projects designed to help us achieve our goals that we thought might interest you, including the Sales and Use Tax Regulations Team and a team working on improving our tax processes. The progress we have made in the first year of a two-year improvement process is, in large part, a function of the level of support we have received from many of you.

Accountants, attorneys and tax practitioners have helped us in dozens of ways, from providing guidance to us as we draft new regulations to helping promote electronic income tax filing. This will lead to lower compliance costs as new regulations are proposed to simplify compliance with sales and use tax requirements. In addition, a record year for electronic filing in Missouri has both reduced the cost of government and reduced the cost of compliance for our tax-paying customers.

While we've made progress this year, the implementation of improvements to come will require a stronger partnership with you than we have ever asked before. I hope that you will become even more involved in our performance improvement efforts. One way you can do this is by letting us know what improvements are still needed in the products upon which we are working. You've heard from us. Now let us hear from you.

Director of Revenue

In this issue

Update on Tax Season Speedup

by Central Processing Bureau, (573) 751-5820

After a lot of hard work by a group of dedicated individuals, tax season officially ended on June 23, about the same time as last year. Because the department implemented an entirely new process from top to bottom, this quickly became a season of "challenges" and "opportunities" never before encountered. We even had to adjust our schedule for the daily dynamite blasting due to construction being done behind the building.

"Speed-up" began in early May 1998 with a group, armed with Post-it pads, breaking down each step in the traditional "one person/one job" assembly line way of processing returns. The term "we have always done it that way" was banned. The major goal for the team was to find a quicker way to process returns with the emphasis on getting refunds to the customers more quickly. It became evident that the real culprit in the process was making batches of returns before moving to the next step in the process. This meant that once a step was completed on a single return nothing more was done to the return until the batch was complete, then it was moved to the next sequence in the process. This resulted in a lot of "dead time" between each of the steps. Testing revealed that the average time spent actually working on a return was three minutes, but the elapsed time from the time processing began until it ended was at least 17 days. Another problem was that returns with payments were processed in the system nightly and those resulting in a refund were processed only on weekends. Which is more important to the public?

At this point, teams from the different sections were established to look at **every** action in the entire process. The teams confirmed which parts of the process were necessary and which were to be eliminated. The department's computer programming staff designed a computer program to replace the existing data entry system. This program was developed and coincided with the revision of individual tax forms. Coordination with the Office of Administration, State Treasurer's Office and the State Data Center brought about a reversal in processing checks and refunds; refunds are now done nightly and pay returns are processed on the weekends.

As the actual work began, the key word became flexibility. We found that things did not always go as planned or that there was a better way to do some things.

One issue that worked as advertised was that refunds were issued four days from the date the returns were keyed. Through April 30 over 85,000 more refunds had been sent out than as of the same date last year. The week of April 15 the department received an unusually large amount of returns in a very few days. Priorities shifted from refunds to checks in an effort to get the deposits in the bank and be good stewards of state assets.

Was this year a success? If you consider the overall accomplishment of completing the first year of a two-year revision program of this magnitude in a very short period, with no *major* problems, then the answer is **YES**! There are a great deal of improvements planned for next year that will make this process even better!

Sales and Use Tax Regulations Team Update

In the last issue of the *Tax Bulletin*, we reported on the recommendations made by the team that reviewed the sales and use tax regulations. In this issue, we are excited to report on our progress.

Recommendation 1 — A complete redraft of the regulations.

Our first new regulation, titled Machinery and Equipment Exemptions, will be submitted to the formal rulemaking process by the time you read this. As the team recommended, this rule was circulated for public comment before approval by the department. The department received a number of comments, all of them useful. As a result, we believe we have a rule that is clear, concise and complete. We are also proposing the rescission of seven rules that are being replaced by the one new rule.

In August, approximately ten additional regulations will be available for public comment, including Burden of Proof, Printers, Prescription Drugs and Refunds and Credits. We have already learned that your comments make the difference between a good rule and an excellent

See Sales Tax Team, page 6

Information Bulletin

July 1999, the department established an area office in Columbia, Missouri for the Field Audit Bureau and the Taxpayer Services Bureau. The new location for this office is:

Division of Taxation and Collection
Taxpayer Assistance Center/Field Audit Bureau
1500 Vandiver, Room 113
Columbia, MO 65201

You can reach the Field Audit Bureau at (573) 884 3817 and Tax Assistance Center at (573) 884-3814.

Office hours for taxpayer assistance are from 7:45 a.m. to 4:45 p.m. Monday through Friday.

Also, effective July 1999, the St. Louis Field Audit Bureau office was relocated to:

Division of Taxation and Collection
St. Louis Field Audit Bureau
1845 Borman Court, Ste. 150
St. Louis, MO 63146-4126.

The new telephone number is (314) 340-3799.

The Tax Assistance Center is still located at
2500 S. Brentwood, Ste. 300
Brentwood, MO 63133
(314) 301-1660

Missouri Department of Revenue
Mel Carnahan, Governor; **Quentin Wilson**, Director of Revenue; **Carol Russell Fischer**, Director, Division of Taxation and Collection
Tax Bulletin is published three times a year by the Missouri Department of Revenue, Linda Bushman, Editor; Rita Horstman, Printing Services Coordinator; Mitzi Crump, Senior Publications Specialist. Comments and suggestions should be sent to Missouri Department of Revenue, 301 W. High St., P.O. Box 629, Jefferson City, Missouri 65105-0629, or you may submit e-mail to Linda_Bushman@mail.dor.state.mo.us

Legislative Update

by Vickie Wood, Office of Legislation and Regulations, (573) 751-2110

Governor Carnahan has signed into law a number of bills passed during the recent legislative session relating to taxation. What follows is a synopsis of those bills.

HB 139 – Taxation — Provides a use tax exemption for items temporarily kept or retained in this state.

Allows a 2% discount to direct payers of sales tax for timely payment. This allows businesses with $750,000 or more in purchases that direct pay sales tax, to receive a 2% timely filing discount.

Provides for an optional tax on hotel rooms — this tax is administered at the local level.

Allows a sales tax exemption on digital broadcast equipment that Missouri radio and TV stations are required by a federal mandate to purchase over the next 15 years.

Allows an income tax credit, except withholding tax, for the fees charged by the Small Business Administration for agricultural loans.

Provides for an optional county sales tax to finance wastewater and water treatment plants. Signed 07/13/99.

HB 316 – Elder Abuse and Neglect; Tax Credits for Adoption; Long-Term Care; Bedding — Establishes the "Shared Care Program" within the Division of Aging (DOA) and authorizes a tax credit of up to $500 to help families offset the costs of caring for a certified elderly person. The caregiver must meet certain qualifications and become registered with the DOA. The credit will be certified by the DOA and will apply to tax years beginning 1/1/00.

This legislation allows 50% of the special needs adoption tax credit to be taken when the child is placed and the remaining 50% to be taken when the adoption is final.

This bill also prohibits penalties collected from residential care, intermediate care and skilled nursing care facilities for violations of standards of the Omnibus Nursing Home Act from being considered as charitable contributions for tax purposes. Signed 07/13/99.

HB 399 – Use Tax — Changes the due date of a person owing consumer's use tax to April 15 (the date the individual return is due). This legislation will not only benefit taxpayers by making the use tax due date the same as their income taxes, but it will also simplify administration of this tax. Signed 07/09/99.

HB 516 – Taxation — Excludes from deposit into the state treasury all funds received and dispersed by the state on behalf of counties, cities, towns and villages;

Places the burden of proof on the department (DOR) in certain tax cases, excluding cases relating to tax credits or exemptions and cases where the taxpayer's net worth exceeds $7 million or employs more than 500 employees. Requires the DOR to provide, upon written request, the basis of audit findings and makes employees of the DOR subject to the same provisions of the Fair Debt Collection Practices Act. Taxpayers who are determined to be an innocent spouse according to the Internal Revenue Code will be allowed the same protections and tax relief on their state tax return;

Allows self-employed taxpayers to deduct the amount of health insurance premiums paid for the taxpayer, the taxpayer's spouse and the taxpayer's dependents. The deduction must qualify pursuant to section 162(1) of the Internal Revenue Code and can only be deducted if the amounts are not already deducted on the taxpayer's federal income tax return;

Allows a taxpayer who qualifies for a pension exemption to phase-out the exemption one dollar for every dollar the taxpayer exceeds the maximum income limitation of $25,000 for single taxpayers, $32,000 for married taxpayers, and $16,000 for married taxpayers filing a separate return. Language is added to clarify the maximum pension exemption is $6,000. This legislation also includes 401(k) plans and deferred compensation plans as a qualified annuity, pension or retirement allowance and excludes from the exemption Roth IRA's and any withdrawals from a qualified plan that are rolled-over into another retirement plan;

Increases the personal exemption from $1,200 to $2,100 per taxpayer beginning January 1, 1999. Also, the additional deduction for taxpayers filing head of household or surviving spouse is increased from $800 to $1,400;

Certain property purchased by specific biotech, medical and veterinary labs for use for research and experimentation activities is exempted from state and local sales and use tax. Qualified taxpayers must precertify the exemption with the Department of Economic Development (DED). The exemption is limited statewide to $1.3 million a year;

Exempts from state and local sales and use tax machines and parts used in commercial coin-operated amusement and vending machines if sales tax is paid on the gross receipts from the use of the machines;

Authorizes an income tax credit equal to 50% of all eligible access expenditures paid by the taxpayer in order to comply with the American with Disabilities Act. The credit cannot exceed $5,000 and any credit exceeding the tax liability may be carried forward, but is not refundable or transferrable; and

Increases the franchise tax filing threshold from $200,000 to $1,000,000 and lowers the franchise tax rate to one thirtieth of one percent. Also transfers the administrative and collection duties of the franchise tax from the Secretary of State's office to the DOR. Signed 06/24/99.

HB 548 – Taxation — Legislation clarifies the sales tax exemption on food. This bill states that if 80% of the food at any location is sold for immediate consumption on or off premises, it all is taxed at the full rate. Signed 07/09/99.

HB 603 – Environmental Protection — This bill extends the sunset provision relating to the waste tire fee from 1/1/01 to 1/1/04. SB 426 – Waste Tire Fee was the companion Senate bill. Signed 07/01/99.

HB 888 – Rural Agricultural Development — This act creates new tax credits for investing in a new generation cooperative and for contributing to the Agricultural Product Utilization Grant Fund. These tax credits will be certified by the Missouri Agricultural and Small Business Development Authority and administered by the DOR. Signed 07/02/99.

SB 8 – Health Programs — This act authorizes an income tax deduction equal to fifty percent of the health insurance premiums paid on long-term health care. Signed 07/13/99.

SB 14 – Pharmaceutical Income Tax Credit — This legislation authorizes a $200 pharmaceutical tax credit for senior citizens 65 or older and whose Missouri adjusted gross income is less than $15,000. For senior citizens whose Missouri adjusted gross income exceeds $15,000, the credit will be reduced two dollars for every one hundred dollars of

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Court Cases

by General Counsel's Office, (573) 751-2633

Income Tax

Cobank, ACB, as successor to The National Bank for Cooperatives v. Director of Revenue, Case numbers 98-0716 RI and 98-0718 RI (AHC, 6/18/99)

The National Bank for Cooperatives (Taxpayer) through its successor filed a claim for refund of corporation income tax paid for the years 1991 through 1994. The Taxpayer made no argument that it is excluded from taxation because it is not a corporation, but claimed it was immune solely because of its designation as a federal instrumentality.

The Administrative Hearing Commission (AHC) found the farmer-owned cooperative Farm Credit System was established to encourage farmer and rancher borrowers' participation in the management, control and ownership of a system of credit for agriculture that is responsive to the credit needs of agricultural producers. While Congress expressly provided for complete immunity from state taxation for some members of the Farm Credit System, it made no such designation for banks for cooperatives or The National Bank for Cooperatives. No part of the U.S. Government had any stock ownership in the Taxpayer during the years at issue. Lastly, the U.S. Supreme Court has stated production credit associations, which are similarly situated to the Taxpayer, has as their business the making of commercial loans and their interests are not coterminous with those of the Government any more than most commercial interests.

The AHC concluded that as no part of the U.S. Government had any stock ownership in the Taxpayer and the Taxpayer was not under the control of the U.S. Government, the Taxpayer did not establish that it was a federal instrumentality that was immune from state taxation. The corporation income tax refunds were denied.

Income Tax

Stuart D. Cave v. Director of Revenue, Case No. 98-001855 RI (AHC, 5/25/99).

The Administrative Hearing Commission (AHC) upheld the director's assessment of Missouri income tax and interest for 1994, but not additions to tax.

In August 1997, the director issued Stuart D. Cave (Taxpayer) a refund for 1994. The director sought to recover part of the refund and assessed the Taxpayer tax, additions to tax and interest.

The Taxpayer did not dispute the tax amount. The AHC determined that the excess refund and the failure to return it was not due to the Taxpayer's negligence or intentional disregard of rules and regulations — the excess refund was a result of the Director's error. The AHC concluded that the Taxpayer did not owe an additions to tax, although he did owe interest on the refund from 8/15/97.

Income Tax

Arthur E. and Georgia M. Faunce v. Director of Revenue, Case No. 97-003665 RI (AHC, 5/14/99).

Arthur and Georgia Faunce (Taxpayers) did not file a Missouri individual income tax return for 1993 until 4/15/97. The Taxpayers began their return with a number other than federal adjusted gross income. Taxpayers took a credit for taxes paid to Kansas. The department recomputed the Taxpayers' return. One spouse earned all of her income in Kansas, and was allowed credit for the tax paid to Kansas. An amount remained due after the credit for taxes paid to Kansas. Taxpayers argued that Missouri did not have jurisdiction over income earned in Kansas by a Missouri resident, and that if Missouri did tax this income, it would result in double taxation. Additionally, the Taxpayers argued that they were entitled to a jury trial.

The Administrative Hearing Commission (AHC) found that Taxpayers were not entitled to a jury trial and that a Missouri resident is taxable on all income, no matter where earned. The AHC stated that a Missouri resident who works outside of the state, receives credit for taxes paid to another state; therefore, that resident pays the same amount of total state income tax as a resident who earns the same amount and works inside the state.

The AHC stated that the Taxpayers did not carry their burden of proof as to the additions, as they did not provide an explanation for failing to timely file. Taxpayers were found liable for the tax, interest and additions to tax.

Income Tax

Jack A. and Corilla J. Hicks v. Director of Revenue, No. 98-002317 RI (AHC, 6/1/99)

Jack and Corilla Hicks (Taxpayers) challenged the director's final decision denying a refund of 1993 Missouri income tax as untimely filed. The Administrative Hearing Commission (AHC) upheld the denial of the refund.

After receiving an extension to file their 1993 Missouri income tax return, the Taxpayers filed their return on 8/15/94. A refund was issued to the Taxpayers on 9/21/94. On 6/4/97, the State of California assessed the Taxpayers an additional $2,856.89 which the Taxpayers paid under protest. The California protest was denied on 8/27/97. The Taxpayers filed an amended 1993 Missouri income tax return in December 1997 claiming the additional tax paid to California and seeking a refund in the amount of $2,661.00. The director denied the refund based upon the passage of the three-year statute of limitations for refunds pursuant to Section 143.801.1, RSMo.

The AHC found that the claim for refund was filed after the time for claiming a refund had passed. Section 143.801.1, RSMo, requires the claim to be filed within three years from the time the return was filed or two years from the time the tax was paid. The original 1993 Missouri return was filed on 8/15/94, but the claim for refund was not filed until December 1997. The three-year period had passed and the law does not allow any exceptions to allow a refund to be issued after the statute of limitations period has passed.

Sales Tax

American Healthcare Management, Inc. v. Director of Revenue, Slip Opinion, 80456, (Mo. banc 1999).

American Healthcare Management, Inc. (Taxpayers) were nursing facilities that purchased utility services for use in the operation of the facilities. Making a claim of exemption under Section 144.030.2(23), RSMo 1994, domestic use, the taxpayers sought refunds. The director disagreed with the Taxpayers' contention and denied their refunds. The Taxpayers appealed the denial to the Administrative Hearing Commission (AHC). AHC found the utilities used by the residents of the nursing facilities were used for domestic purposes. AHC further found that the Taxpayers did not meet the definition of an exempt multiple family dwelling because they were neither apartments or condominiums and they had failed to meet their burden of establishing the percentage of the utilities that were used for domestic purposes. The Taxpayers appealed the AHC's decision to the Missouri Supreme Court (Court).

The Court affirmed the AHC's decision that the resident usage in the nursing homes was domestic use. However, it reversed the AHC's findings that Section 144.030.2(23)'s exemption, as it applied to multi-family dwellings, was limited to apartments and condominiums. The Court stated that the intent of the legislature was to exempt all domestic use regardless of the purchaser or the location of the use. The Court also reversed the AHC's finding that the taxpayer failed to prove the amount of the domestic utility usage.

Sales Tax

Alfermann, Gray & Co., LLC v. Director of Revenue, Case No. 98-002701 RV (Mo. AHC, Memorandum and Order, 3/23/99).

Alferman, Gray & Co., LLC (Taxpayer) is a limited liability company (LLC) established under Chapter 347, RSMo. Although the Taxpayer is a LLC, it elected to be taxed as a partnership. The Taxpayer is owned by one individual.

The Taxpayer filed a motion requesting that the owner of the LLC be allowed to represent the LLC before the Missouri Administrative Hearing Commission (AHC). The owner of the LLC is not a licensed attorney. The AHC concluded that the LLC must have a licensed attorney for representation before the AHC. The AHC ruled that an LLC has a separate existence at law and therefore only a licensed attorney may represent the LLC.

Sales Tax

Kanakuk-Kanakomo Kamps v. Director of Revenue, 97-001672RV and 97-002035RV (AHC 1999).

Kanakuk-Kanakomo Kamps (Taxpayer) was engaged in the business of conducting a summer camp for youth. Taxpayer charged a tuition based on the length of stay at the campground. Although the camp had a religious theme, it was not directly associated with any particular church or organization. The camp was divided into various different theme areas. The camp offered recreational activities and sports training. The Taxpayer had been collecting and remitting sales taxes based on the overall tuition. But it decided that the portion of its tuition that it attributed to the "sports lessons" were exempt. Based on that decision, the Taxpayer sought a refund of the sales taxes that it calculated were associated with the "lessons." The director denied the refund claim and the Taxpayer appealed to the Administrative Hearing Commission (AHC).

The Taxpayer argued that it was not a place of amusement and that in the alternative, its tuition charges were partial payment for lessons and therefore, the associated fees were not subject to Missouri sales taxes. The Taxpayer cited regulation 12 CSR 10-3.176(12) as support for its argument that the lessons were not subject to tax. The AHC, citing Columbia Athletic Club v. Director of Revenue, 916 S.W.2d 806 (Mo banc 1998), found that the Taxpayer offered primarily sporting and recreational activities. Based on this conclusion, the AHC found that the tuition charges were "fees paid in and to a place of amusement" and subject to sales tax. Taxpayer has filed a petition for review of this decision with the Missouri Supreme Court. The case is now pending before the court.

Sales Tax

Gregg A. Fritsch & Robert G. Slonim, 96-000137RV (AHC 1999.)

Gregg A. Fritsch & Robert G. Slonim (Taxpayers) were officers of a corporation that was delinquent in the payment of its sales taxes. The director assessed both persons as responsible persons under Section 144.157.1, RSMo. Both parties appealed the assessments to the Administrative Hearing Commission (AHC). Fritsch entered into a settlement agreement with the department. Slonim argued that he had no authority within the corporation and no ability to pay the taxes.

The AHC stated that in order for Slonim to be held liable the following elements must be present. He must be a "responsible person" and his failure to report and remit the taxes had to be willful. The AHC found Slonim's testimony, that he was not involved in the operation of the corporation, to be credible and it held that he was not a responsible person under Section 144.157.1, RSMo.

Update

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income over $15,000. Individuals receiving full reimbursement for the cost of legend drugs from Medicare or Medicaid or who are residents of a local, state or federally funded facility will not be eligible for this tax credit. The tax credit is for tax years beginning 1/1/99, and will expire 12/31/04. Signed 07/08/99.

SB 33 – Sales Tax on College Textbooks — This bill makes all textbooks exempt from state sales tax. Previously only those books purchased at a bookstore located on campus were exempt. Signed 07/09/99.

SB 159 – Tax Credits for Maternity Homes and Domestic Violence Centers — This legislation expands the domestic violence shelters tax credit and the maternity homes tax credit by adding to the definition of a contribution of cash, stock, bonds or other marketable securities, or real property. Domestic violence shelters and maternity homes may decline a contribution from a taxpayer. Signed 07/09/99.

SB 219 – Property Taxation — This bill allows the State Tax Commission (STC) to assess freight line companies an advalorem tax based on track miles in Missouri counties. The STC passes the assessment information to the DOR which bills and collects this tax on a statewide basis on behalf of these entities. Distribution is made to each county based on that county's pro rata share of total main line track mileage. This legislation will greatly simplify the paying of this tax on the taxpayer level and simplify its administration by making collection much more efficient. Signed 07/13/99.

SB 386 – Banking — This act allows shareholders of S corporation financial institutions to receive income tax credits based on its pro rata share of franchise taxes paid by the institutions. Signed 07/13/99.

SB 387 – Public Assistance and Social Services Programs — Establishes the Family Development Accounts in which families and individuals with household income 200% below poverty may establish special savings accounts. The funds and interest which are deposited and earned in these accounts are tax exempt, except for withholding taxes. Tax credits will be given to contributors of this program, up to $50,000. These tax credits will be monitored and certified by the DED.

Establishes the "Mature Worker Program" which is created as a community service to enroll disadvantaged individuals, age 55 or older, to work in child care assignments. A participating facility may receive tax credits up to $10,000 beginning 1/1/00. The tax credits are certified and monitored by the DED. Signed 07/13/99.

SB 414 – Motor Fuel Tax — This bill is a cleanup of Senate Bill 619, which was a rewrite of the Motor Fuel statute last year.

It eliminates vendors from the refund process effective 1/1/01;

Requires DOR to issue motor fuel refunds in 30 days rather than 90 days or pay interest;

Allows additional time for fuel users/consumers to claim a refund allowing until 4/15 or one year whichever is later;

Corrects four incorrect statute references;

Allows the DOR to work with the petroleum marketers to establish a self "Bonding System";

Adds enforcement language needed by the MO Highway Patrol and the DOR. Signed 07/09/99.

SB 518 – Economic Development — This bill authorizes St. Francois County to vote to impose a local sales tax to fund economic development. Also, this bill establishes seed capital for Missouri businesses through the Missouri New Enterprise Creation Act. Signed 07/08/99.

Sales Tax Team

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rule. We count on your continued assistance.

The updating of the Audit Training Manual is almost complete and it will be available on the department's website by the end of the summer. The sales and use tax regulations will be organized using the same table of contents and numbering system as the manual so that the two can easily be used together.

Recommendation 2 — A small group of employees responsible to senior management for ensuring the regulations are current.

Members of the Sales and Use Regulation Group (SURG) are Stan Farmer and Todd Iveson, Co-Chairs, and Pat Gifford, James Hoagland, Jay Welch and Dave Zanone. SURG has taken the lead on the redraft of the rules and is currently working with an outside vendor to make sales and use tax resources available to all department personnel — and taxpayers — on CD-ROM and the Internet. Once the redrafting is complete, SURG will be responsible for maintaining the regulations and for developing additional department resources to promote consistent application of the sales and use tax statutes.

Recommendation 3 — Industry seminars.

As part of the redrafting process, SURG is identifying industry specific rules and related Training Manual material for use in connection with industry specific seminars. Once the redraft is completed, these materials will be used as the basis for such seminars, which will be offered statewide. Additionally, industry materials will be available on request to the department. The new format will allow much greater flexibility in tailoring these materials to meet the needs of a particular taxpayer.

Recommendation 4 — Regulations on the Internet.

Independently of the department, the Secretary of State has made all of the department's current regulations available on the Internet. Our goal is to make them available in a searchable format. To that end, as noted above, SURG is working with a vendor to develop a Missouri sales tax library, including the regulations, which will be available on CD-ROM and the Internet.

Most of the team's long range recommendations must wait until the completion of the regulation redrafting. The department continues to work with the public, industry and legislators to identify ways to simplify the sales and use tax laws and to advocate simplification in the context of equity for all taxpayers and consideration for legitimate business concerns.

SURG would like to thank those within the department who have assisted by drafting revised regulations: Jim Hoagland, Todd Iveson, Dave Zanone, Wayne Rosenthal, Scott Leary, Jane Gardner, John Feldmann, Francis Leonard, Robert Nielsen, Pat Gifford, Jim Walker, Gerry Andert, Don Lazo, Debbie Shores, Jay Welch and Carole Iles We would also especially like to thank all of those who have graciously reviewed these drafts and made them better through their comments. With your help, we soon will have a set of regulations that will be the envy of other states.

Letter Rulings

by General Counsel's Office, (573) 751-2633

The following is a list of the letter rulings issued during the period of March 1999 to July 1, 1999.

CL1296	Manufacturing – Machinery/Equipment
CL1480	Sales Tax – Internet and Computer Software
CL1488	Medical Equipment – Sale of Medical Equipment and Parts by an Out-of-State Seller
CL1508	Agriculture – Feed for Livestock
CL1517	Out-of-State Sales – Contractor's Exemption
CL1530	Manufacturing – Parts
CL1532	Manufacturing/Contractors – Machinery and Equipment Used in Manufacturing by a Contractor
CL1542	Places of Amusement – Membership Dues, Training Seminars
CL1543	Medical, Dental & Veterinary – Property Used in Medical Research
CL1547	Medical – Exemption for Medical Equipment
CL1549	Places of Amusement – Country Club Membership Dues
CL1550	Agricultural – Exempt Farm Equipment
CL1551	Manufacturing – Replacement Parts, Manufacturing Parts
CL1581	Interstate Commerce – Sales by an Out-of State Business with a Missouri Sales Office
CL1582	Places of Amusement – Fitness Center
CL1583	Telephone Service – Prepaid Cellular Phone Cards
CL1593	Non-Profit Corporation – Sales by Religious Organization
CL1595	Places of Amusement – Country Club Membership Dues
CL1608	Material Recovery Processing Plant and Component Parts – Applicability of Component Part Exemption and Material Recovery Exemption
CL1613	Medical – Sale of Hearing Aids and Medical Services
CL1622	Livestock – Feed for Horses
CL1628	Manufacturing – Rental of Forklifts
CL1635	Request to Pay Sales Tax Without Registration
CL1639	Lease & Rental – Situs of Sale, Lease of Equipment
CL1665	Manufacturing – Photo Finishing
CL1684	Non-Profit Organization – Sales by an Exempt Entity
CL1705	Places of Amusement – Fitness Center
CL1707	Liquidations & Medical – Sale of Business Assets
CL1743	Printing – Sales of Printing and Artwork Out of State
CL1755	Out-of-State Sales – Office Furniture
CL1786	Manufacturing – Making Frozen Pizza
CL1788	Correct Tax – Sales from Out of State with Title Passing in Missouri
CL1802	Video Materials – Situs of Sale, Sale of Video Tapes

Copies of the sanitized version of these letter rulings are available at a cost of $1.10 plus sales tax of 6.225% each by writing to the Department of Revenue, General Counsel's Office, P.O. Box 475, Jefferson City, MO 65105-0475. Copies may also be obtained from the Department's Bulletin Board System (573) 751-7846 or its Internet Web Page (http://dor.state.mo.us).

Sales Tax Exemption for "Parts" — Questions and Answers

The department recently participated in seminars around the state addressing the "parts" exemption included in sections 144.030.2(4) and (5), RSMo. As reported in the last *Tax Bulletin*, parts are components of machinery or equipment that can be separated from the machinery or equipment. The exemption requires that the machinery and equipment must be directly used in manufacturing a product which is intended to be sold for final use and consumption. A synopsis of the most asked questions and answers follows.

1. Would replacement parts for manufacturing machinery and equipment purchased at any time be exempt from tax?

No. The statute became effective 8/28/98. Machinery and equipment parts purchased before that date would be subject to tax. Parts purchased after that date would be exempt.

2. What are some common machinery or equipment "parts"?

Items such as nuts, bolts, hoses, hose-clamps, chains, belts, gears, drill bits, grinding heads, blades and bearings would ordinarily be considered "parts" within the meaning of Section 144.030.2(4).

3. Do tires on forklifts qualify as parts?

To qualify for exemption, the forklifts must be used directly in manufacturing a product. Tires for these forklifts would be considered replacement parts.

4. What if a taxpayer manufactures their own repair parts for exempt machinery and equipment? Would the machine used to make these parts qualify?

No. The machine is not directly producing a product, which is intended to be sold for final use or consumption. The purchase of the equipment is not exempt from tax.

5. Is testing equipment used to ensure that the products meet the specifications of the customer exempt?

Testing equipment directly used in the manufacturing process would qualify for the exemption. Testing equipment not directly used in manufacturing, such as research and development equipment, would not qualify for the exemption.

6. Does equipment used to maintain the machinery and equipment directly used in manufacturing, and the replacement parts used thereon, also qualify for exemption?

Maintenance equipment and its repair parts are not directly used in manufacturing a product and therefore do not qualify for exemption.

7. What should a purchaser do if a vendor does not cooperate in requesting a claim for refund from the department for tax paid on exempt equipment?

The department suggests that the purchaser provide all the necessary information to make it easier for the vendor to file the refund. Information such as purchase invoices, schedules, refund claims and exemptions are required documentation.

8. As a vendor, can you wait to send in amended returns and refund applications for more than one taxpayer?

Vendors can combine refund requests, but the refund application must be filed within the three-year statute of limitations.

9. Can a purchaser file its claim for refund directly with the state for sales tax paid in error on repair parts when the taxes have been paid to a seller?

No. Section 144.190 provides that the person legally obligated to remit the tax is the person who shall file the claim for refund on behalf of the purchaser. A purchaser that self accrues and remits use tax directly to the state may file directly with the state.

If you have questions about the manufacturing exemptions, you may contact your local Field Audit or Taxpayer Assistance Center, or contact the field audit office at (573) 751-3736. You may also wish to request a letter ruling from the department. Regulation 12 CSR 10-1.020 outlines the requirements for a binding letter ruling.

Tax Calendar
Due Dates for September – December 1999

September

3 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
10 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
15 Estimated Tax Declarations for Individuals
Declaration of Estimated for Calendar Year Corporations
Monthly Withholding Returns
Cigarette Tax Credit Account and Return
Other Tobacco Products Monthly Report
Calendar Year Cooperatives with Extension
20 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
Monthly Sales/Use Tax Returns
Cigarette Tax Cash Accounts Return
27 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
30 Motor Fuel Reports

October

5 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
12 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
15 Corporation Income Tax with Automatic Extension
Cigarette Tax Credit Account and Return
Other Tobacco Products Monthly Reports
20 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
Cigarette Tax Cash Accounts Return
27 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment

November

1 Monthly Sales/Use Tax Returns
Quarterly Sales/Use Tax Returns
Quarterly Withholding Returns
Monthly Withholding Returns
Motor Fuel Reports
Tire Fee
Quarterly Insurance Tax Payments
Quarterly Interstate Fuel Tax User Report
3 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
10 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
15 Monthly Withholding Returns
Cigarette Tax Credit Account and Return
Other Tobacco Products Monthly Reports
Calendar Year Trusts with an Automatic Extension to file 1998 Form MO-1120
18 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
22 Monthly Sales/Use Tax Returns
Cigarette Tax Cash Accounts Return
29 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
Motor Fuel Reports
Quarterly Insurance Tax Payments

December

1 Motor Fuel Reports
Quarterly Insurance Tax Payments
3 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
10 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
15 Declaration of Estimated Tax for Calendar Year Corporations
Monthly Withholding Returns
Cigarette Tax Credit Account and Return
Other Tobacco Products Monthly Reports
20 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
Monthly Sales/Use Tax Returns
Cigarette Tax Cash Accounts Return
27 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
30 Motor Fuel Reports

Tax Bulletin
Missouri Department of Revenue
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